

PATENT COOPERATION TREATY

From the
INTERNATIONAL SEARCHING AUTHORITY

PCT

To:

see form PCT/ISA/220

WRITTEN OPINION OF THE INTERNATIONAL SEARCHING AUTHORITY (PCT Rule 43bis.1)

Date of mailing

(day/month/year) see form PCT/ISA/210 (second sheet)

Applicant's or agent's file reference
see form PCT/ISA/220

FOR FURTHER ACTION

See paragraph 2 below

International application No.

PCT/IB2004/000296

International filing date (day/month/year)

03.02.2004

Priority date (day/month/year)

06.02.2003

International Patent Classification (IPC) or both national classification and IPC

A61J3/00, A23G3/20, B01J2/00, B01F9/00

Applicant

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1. This opinion contains indications relating to the following items:

- ☒ Box No. I Basis of the opinion
- ☒ Box No. II Priority
- ☐ Box No. III Non-establishment of opinion with regard to novelty, inventive step and industrial applicability
- ☐ Box No. IV Lack of unity of invention
- ☒ Box No. V Reasoned statement under Rule 43bis.1(a)(i) with regard to novelty, inventive step or industrial applicability; citations and explanations supporting such statement
- ☐ Box No. VI Certain documents cited
- ☐ Box No. VII Certain defects in the international application
- ☒ Box No. VIII Certain observations on the international application

2. FURTHER ACTION

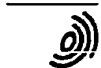
If a demand for international preliminary examination is made, this opinion will usually be considered to be a written opinion of the International Preliminary Examining Authority ("IPEA"). However, this does not apply where the applicant chooses an Authority other than this one to be the IPEA and the chosen IPEA has notified the International Bureau under Rule 66.1bis(b) that written opinions of this International Searching Authority will not be so considered.

If this opinion is, as provided above, considered to be a written opinion of the IPEA, the applicant is invited to submit to the IPEA a written reply together, where appropriate, with amendments, before the expiration of three months from the date of mailing of Form PCT/ISA/220 or before the expiration of 22 months from the priority date, whichever expires later.

For further options, see Form PCT/ISA/220.

3. For further details, see notes to Form PCT/ISA/220.

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**WRITTEN OPINION OF THE
INTERNATIONAL SEARCHING AUTHORITY**

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Box No. I Basis of the opinion

1. With regard to the **language**, this opinion has been established on the basis of the international application in the language in which it was filed, unless otherwise indicated under this item.
 - ☐ This opinion has been established on the basis of a translation from the original language into the following language , which is the language of a translation furnished for the purposes of international search (under Rules 12.3 and 23.1(b)).
2. With regard to any **nucleotide and/or amino acid sequence** disclosed in the international application and necessary to the claimed invention, this opinion has been established on the basis of:
 - a. type of material:
 - ☐ a sequence listing
 - ☐ table(s) related to the sequence listing
 - b. format of material:
 - ☐ in written format
 - ☐ in computer readable form
 - c. time of filing/furnishing:
 - ☐ contained in the international application as filed.
 - ☐ filed together with the international application in computer readable form.
 - ☐ furnished subsequently to this Authority for the purposes of search.
3. ☐ In addition, in the case that more than one version or copy of a sequence listing and/or table relating thereto has been filed or furnished, the required statements that the information in the subsequent or additional copies is identical to that in the application as filed or does not go beyond the application as filed, as appropriate, were furnished.
4. Additional comments:

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Box No. II Priority

1. ☒ The following document has not been furnished:

☒ copy of the earlier application whose priority has been claimed (Rule 43*bis*.1 and 66.7(a)).

☐ translation of the earlier application whose priority has been claimed (Rule 43*bis*.1 and 66.7(b)).

Consequently it has not been possible to consider the validity of the priority claim. This opinion has nevertheless been established on the assumption that the relevant date is the claimed priority date.

2. ☐ This opinion has been established as if no priority had been claimed due to the fact that the priority claim has been found invalid (Rules 43*bis*.1 and 64.1). Thus for the purposes of this opinion, the international filing date indicated above is considered to be the relevant date.

3. Additional observations, if necessary:

Box No. V Reasoned statement under Rule 43*bis*.1(a)(i) with regard to novelty, inventive step or industrial applicability; citations and explanations supporting such statement

1. Statement

Novelty (N)	Yes: Claims	5-12
	No: Claims	1-4
Inventive step (IS)	Yes: Claims	
	No: Claims	1-12
Industrial applicability (IA)	Yes: Claims	1-12
	No: Claims	

2. Citations and explanations

see separate sheet

Box No. VIII Certain observations on the international application

The following observations on the clarity of the claims, description, and drawings or on the question whether the claims are fully supported by the description, are made:

see separate sheet

Re Item V

Reasoned statement under Rule 66.2(a)(ii) with regard to novelty, inventive step or industrial applicability; citations and explanations supporting such statement

1. Reference is made to the following documents:

- D1: EP-A-0 362 888 (FREUNT IND CO LTD) 11 April 1990 (1990-04-11)
- D2: EP-A-0 504 773 (VELO SPA) 23 September 1992 (1992-09-23)
- D3: FR-A-2 251 270 (DUMOULIN & CO ETS F) 13 June 1975 (1975-06-13)
- D4: FR-A-1 262 239 (BRAAK BERNARDUS TER;BRAAK JOHANNES
GERARDUS TER) 26 May 1961 (1961-05-26)
- D5: US-A-2 986 475 (EARL ROSEN ET AL) 30 May 1961 (1961-05-30)

2. The document D1 is regarded as being the closest prior art to the subject-matter of claim 1, and discloses (see column 8, lines 8 to 49, column 9, lines 48 to 58, and column 10, lines 9 to 16, and figures 4 and 5; the references in parentheses applying to this document):

2.1 A machine for the treatment of pharmaceutical products comprising a pan (1) that revolves about an axis of rotation and a dispensing unit (11) designed to disperse a coating material inside the pan over a mass of the products (M) located in the pan (1); wherein the pan (1) has an opening (11) for feeding the products to be treated into the pan (1), and an opening (31) for feeding the products already treated with the coating material out of the pan (1), the infeed opening (11) and the outfeed opening (31) being separate and independent of each other; a portion of the inside surface of the pan (1) being equipped with at least one helical flow regulating fin (15) designed to facilitate inflow of the products to be treated into the pan during the feeding of the products into the pan through the infeed opening when the pan itself revolves in a first direction of rotation (A), and to cause outflow of the treated products from the pan during the outfeed of the treated products from the pan through the outfeed opening when the pan itself revolves in a second direction of rotation (B), opposite to the first direction of rotation.

2.2 The subject-matter of claim 1 is therefore not new in the sense of Article 33 (2) PCT.

- 2.3 The subject-matter of claim 1 also lacks novelty in view of D2 (see column 1, lines 6 to 10, column 2 lines 1 to 11, column 3, lines 11 to 45, column 3, lines 53 to 57, column 4, lines 4 to 6, and figures 1 and 2).
- 2.4 Dependent claims 2 to 4 are also not new, see:
D1, column 8, lines 8 to 49, column 9, lines 48 to 58, and column 10, lines 9 to 16, and figures 4 and 5, for claims 2, 3; or
D2, column 1, lines 6 to 10, column 2 lines 1 to 11, column 3, lines 11 to 45, column 3, lines 53 to 57, column 4, lines 4 to 6, and figures 1 and 2, for claims 3, 4.
3. Dependent claims 5 to 12 do not contain any features which, in combination with the features of any claim to which they refer, meet the requirements of the PCT in respect of inventive step (article 33(3) PCT).
They consist merely in slight contructional details which come within the scope of the customary practice followed by persons skilled in the art, especially as the advantages thus achieved can readily be foreseen, see for example:
- D1, column 8, lines 8 to 49, column 9, lines 48 to 58, and column 10, lines 9 to 16, figures 4 and 5, for claim 9;
D2, column 1, lines 6 to 10, column 2 lines 1 to 11, column 3, lines 11 to 45, column 3, lines 53 to 57, column 4, lines 4 to 6, and figures 1 and 2, for claim 5;
D3, page 2, lines 21 to 39, page 3, lines 7 to 21, and figures, for claims 6 and 7;
D4, page 1, right-hand column, lines 5 to 13, page 2, left-hand column, lines 24 to 49, for claims 8 and 12;
D5, column 2, lines 27 to 30, and column 2, lines 48 to 51, for claims 10 and 11.

Re Item VIII

Certain observations on the international application

Claims 2 and 3 are not clear with respect to Article 6 PCT.

In claim 2, with the expression "above and to one side of the outfeed opening", it is not clear how the openings are arranged one with respect to the other. In particular, it is not clear which of the "side of the outfeed opening" is in fact referred to.

This could be made clearer by expressing this arrangement with respect to the pan (as

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seen on figure 1).

In claim 3, the terms "substantially cusped" are not clear and could be clarified, for example, as described on page 3, line 27.